

Comments on the Notifications G/SPS/N/USA/933 and G/SPS/N/USA/934 from the Chinese Government

The Chinese government thanks the U.S. government for the opportunity to comment on the SPS notifications G/SPS/N/USA/933 and G/SPS/N/USA/934 circulated by the WTO Secretariat on 20 July 2004, and would like to provide the following comments for your consideration.

1. The notification G/SPS/N/USA/933 has set out the provisions on the use of materials derived from cattle in food for human consumption and cosmetics, which covered all countries exporting the concerned products to the United States. At present, the European Union, Japan, Israel, Canada and United States are areas that BSE exist, while China is the disease - free country.

According to the “principle of regionalization” of WTO SPS Agreement, namely the application of the different measures for different regions [according to whether disease exist or not]. So, it is not in compliance with the principle to take the same measures on the disease-free areas including China as those on countries where BSE exist by the U.S.

2. As the notification G/SPS/N/USA/933 has set out the ban on the use of certain high risk substances derived from cattle in food and cosmetics, China is on a view that the requirement for establishment and maintenance of record by the notification G/SPS/N/USA/934 on such basis is not in compliance with the principle of minimized effect on trade.

3. The notification G/SPS/N/USA/934 requests that all producers and processors engaging in the food and cosmetic products manufacturing and processing have to establish substantial production record to prove that the products were not manufactured or processed with prohibited cattle materials. The Chinese government requests that the United States define the detailed requirements of the “substantial production records”, and further clarify whether such a record would probably be in subject of any check other than from the enterprises

4. China is one of the developing countries and its enterprises are generally at relatively weak stage. The implementation as well as the potential exterior inspection, especially the language obstruction challenged to Chinese establishments, would certainly increase the production costs and make the product less competitive. We would like to draw attention from the United States on this concern.

5. Now, China takes the practice to issue quarantine certificate by government or agencies of official authorization to cosmetics products from countries where BSE exist, including the United States. This practice also meets the spirit of the previously held trade negotiation between China and United States. The regulations in the notifications

G/SPS/N/USA/933 and G/SPS/N/USA/934 are obviously stricter than measures that China, as a BSE-free country, takes on products from countries where BSE exist.

In summarizing, we request your reconsideration on the provisions in the above notifications.